

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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MAC PROJECT LLC,

Plaintiff,

v.

HIGH LONESOME CLAIMS, *et al.*,

Defendants.

Case No. 3:24-cv-00217-MMD-CSD

ORDER

**I. SUMMARY**

This action arises from a dispute over the ownership of several placer mining claims in White Pine County, Nevada. (ECF No. 55 (“Amended Complaint”).) The Court previously granted partial summary judgment in favor of Plaintiff MAC Project, LLC (“MAC”) as to three claims asserted in the Amended Complaint—the first claim for declaratory relief, the second claim for declaratory relief and the sixth claim for quiet title. (ECF No. 84 (“November Order”).) In the November Order, the Court also granted Defendant White Pine County’s motion to dismiss for failure state a claim under 42 U.S.C. § 1983. (*Id.*) Before the Court is the remaining Defendants’<sup>1</sup> motion to dismiss, asking the Court to decline to exercise supplemental jurisdiction over the remaining state law claims. (ECF No. 87 (“Motion”).)<sup>2</sup> For the reasons discussed below, the Court denies the Motion.

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<sup>1</sup>Remaining Defendants are Richard W. Sears; Leslie A. Sears; Nikolai L. Dobrescu; Kellie Ann Dobrescu; Steven L. Dobrescu; Teena K. Dobrescu; Dave Southam; Camie Southam; Clay Sears; Lisa Sears; Michael S. Pasek; June Salisbury, Phil Salisbury, High Lonesome Claims (“HLC”); and High Lonesome Mining, Inc. (ECF No. 55.)

<sup>2</sup>Plaintiff responded (ECF No. 90) and Defendants replied (ECF No. 91).

## 1      **II.      DISCUSSION**

2           Defendants primarily argue that dismissal of White Pine County results in only  
 3      state law claims remaining, so the Court should use its discretion under 28 U.S.C. §  
 4      1367(c)(3)<sup>3</sup> and decline to exercise supplemental jurisdiction over the remaining state law  
 5      claims.<sup>4</sup> (ECF No. 87.) In response, however, Plaintiff correctly points out that the Court's  
 6      federal question jurisdiction is also based on the first claim for declaratory relief, so the  
 7      Court cannot exercise its discretion under Section 1367(c)(3). (ECF No. 90.)

8           Plaintiff's first claim for declaratory relief seeks a declaration that state law, NRS §  
 9      517 *et seq.*, is pre-empted by the Federal Land Policy and Management Act of 1976  
 10     ("FLPMA") and the General Mining Act of 1872. (ECF No. 55 at 12-13.) In the November  
 11     Order, the Court granted summary judgment in favor of Plaintiff on this declaratory relief  
 12     claim. (ECF No. 84 at 17.) Thus, the claim giving rise to federal question jurisdiction was  
 13     not dismissed; Plaintiff prevailed on the merits of the claim. Because the Court  
 14     adjudicated the federal question claim in Plaintiff's favor, the Court retains original  
 15     jurisdiction and cannot exercise its discretion under Section 1367(c)(3). *See Trs. of*  
 16     *Constr. Indus. & Laborers Health & Welfare Tr. v. Desert Valley Landscapes & Maint.,*  
 17     *Inc.*, 333 F.3d 923, 926 (9th Cir. 2003) (finding that because the court granted default  
 18     judgment of the federal claim, not dismissal of the federal claim, the exercise of discretion  
 19     under Section 1367(c)(3) was not authorized). For this reason, the Court denies the  
 20     Motion.

## 21     **III.     CONCLUSION**

22           The Court notes that the parties made several arguments and cited several cases  
 23     not discussed above. The Court has reviewed these arguments and cases and  
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25           <sup>3</sup>Section 1367(c)(3) provides that the district court may decline to exercise  
 26     supplemental jurisdiction over a claim if the court "has dismissed all claims over which it  
 27     has original jurisdiction."

28           <sup>4</sup>Defendants raise other arguments as to why the Court should decline to exercise  
 supplemental jurisdiction. The Court declines to address these arguments, because the  
 Court has federal question jurisdiction over the federal claim adjudicated.

1 determines that they do not warrant discussion, as they do not affect the outcome of the  
2 motion before the Court.

3 It is therefore ordered that Defendants' motion to dismiss (ECF No. 87) is denied.

4 DATED THIS 14<sup>th</sup> Day of May 2025.

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7 MIRANDA M. DU  
8 UNITED STATES DISTRICT JUDGE  
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